

Date Issued: April 22, 1983 (AGO 83-17)

Requested by: Tom P. Slorby, Ward County State's Attorney

- QUESTION PRESENTED -

Whether a county may extend an interest-free loan to a rural fire district to cover a shortfall in the budget of that rural fire district.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that a county may extend an interest-free loan to a rural fire district to cover a shortfall in the budget of that rural fire district.

- ANALYSIS -

Article X, Section 18 of the North Dakota Constitution provides:

Section 18. The state, any county or city may make internal improvements and may engage in any industry, enterprise or business, not prohibited by article XX of the constitution, but neither the state nor any political subdivision thereof shall otherwise loan or give its credit or make donations to or in aid of any individual, association or corporation except for reasonable support of the poor, nor subscribe to or become the owner of capital stock in any association or corporation.

The above-quoted constitutional provision prohibits a political subdivision from loaning or giving its credit to or in aid of any individual, association or corporation unless it is for the reasonable support of the poor. A rural fire district is not an individual, association or corporation and therefore this constitutional provision does not prohibit a loan from a county to a rural fire district.

A county is a political subdivision of the state and its rights and powers are determined and defined by state law. Eikevik v. Lee, 13 N.W.2d. 94 (N.D. 1944). However, section 54-40-08(1) of the North Dakota Century Code provides:

54-40-08. JOINT FUNCTIONS - WHO MAY PARTICIPATE.

1. Any municipality, county, park district, school district, or other political subdivision of this state, upon approval of its respective governing body, may enter into agreements with one another for joint or cooperative action, on a cost-sharing basis, or otherwise, to carry out any function or duty which may be authorized by law or assigned to one or more of them, and to expend funds of such municipality, county, park district, school district, or other political subdivision pursuant to such

agreement, to use unexpended balances of their respective current funds, to enter into lease-option to buy and contract for deed agreements between themselves and with private parties, and to accumulate funds from year to year for the provision of services and facilities, and to otherwise share or contribute property in accordance with such agreement in jointly and cooperatively carrying out such function or duty. (Emphasis supplied).

Further, section 18-10-08, N.D.C.C., gives fire districts the authority to borrow money. Therefore, it is my opinion that an interest-free loan from a county to a rural fire district does not violate Article X, Section 18 of the North Dakota Constitution and is authorized by section 54-40-08(1), N.D.C.C.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

ROBERT O. WEFALD  
Attorney General

Prepared by: Nancy K. Hoff  
Assistant Attorney General